

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

KENNETH PARKS,)
)
Plaintiff,)
)
vs.) CASE NO.: _____
)
BIRMINGHAM SOUTHERN)
RAILROAD COMPANY,)
)
Defendant.)

COMPLAINT

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and §1343, 28 U.S.C. §2201 and §2202, and 42 U.S.C. §12101, et seq., Title I of the Americans with Disabilities Act of 1990. The jurisdiction of this Court is invoked to secure protection for and redress the deprivation of rights secured by 42 U.S.C. §12101, et seq.

2. Plaintiff is a citizen of the United States, a resident of Alabaster, Shelby County, Alabama and over the age of nineteen (19) years. Plaintiff is a qualified individual with a disability and/or is perceived as having a disability.

3. Defendant is a corporate and/or municipal entity licensed to do business in Alabama. The Defendant has had fifty (50) or more employees at all times relevant to this action.

4. Venue is properly laid in the United States District Court, Northern District, Southern Division as the acts complained of by Plaintiff were committed or occurred within this district and state.

5. At all relevant times, the Defendant was and is an "employer" as defined in 42 U.S.C. §12101 et seq.

6. Plaintiff filed a timely charge of discrimination based on disability with the United States Equal Employment Opportunity Commission ("E.E.O.C.") on February 25, 2005.

7. Plaintiff was mailed a "Notice of Right to Sue" from the U. S. Department of Justice on March 2, 2005.

8. The complaint in this matter was timely filed with this court within ninety (90) days from the receipt of the Right to Sue Letter.

9. Plaintiff is a member of a protected group: he is a qualified individual with a disability and/or is perceived as being disabled.

10. The Defendant, by and through its agents and representatives, failed to accommodate his disability.

11. Plaintiff was hired by the Defendant in or around March 1994 as a Switchman. Plaintiff's salary was \$22.00/hour. Plaintiff's last day of work with the Defendant was in February 2003. Plaintiff was taken off work by his cardiologist to have a stint placed in one of his arteries. Plaintiff has been released

to return to work on three separate occasions but the Defendant has refused to allow him to return. Plaintiff has provided the Defendant with releases to work from his cardiologist. Plaintiff was told by the Defendant that they would put him back to work initially, then later told that he was medically disqualified from returning to work.

WHEREFORE PREMISES considered, Plaintiff prays for the following:

- a.) Award liquidated damages to Plaintiff on account of Defendants willful violation of 42 U.S.C. §12101, et seq., Title I of the American with Disabilities Act of 1991.
- b.) Lost wages, benefits, pension and retirement plans, costs of filing this action, compensatory damages and punitive damages under 42 U.S.C. sec. 12101et seq.
- c.) Replace Plaintiff to his position with the Defendant with all benefits and seniority restored and order such and further relief as this court may deem just and proper, including injunctive relief.

Kenneth F. Gray, Jr.
ASB-0475-R65K

Bret M. Gray
ASB-3837-G54B

John M. Eades _____
ASB-8132-E40J

OF COUNSEL:
GRIFFIN & ASSOCIATES
2100 River Haven Drive
Suite 1
Hoover, Alabama 35244
(205) 402-7476

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY FOR
ALL THE ISSUES AND DEMANDS IN THIS CASE.**

OF COUNSEL

PLAINTIFF'S ADDRESS:

c/o GRIFFIN & ASSOCIATES
2100 River Haven Drive
Suite 1
Hoover, Alabama 35244

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL:

Birmingham Southern Railroad Company
c/o Prentice Hall Corporation System
150 South Perry Street
Montgomery, AL 36104